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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,080	07/21/2005	Marco Pontanari	60130-2399; 02MRA0191	2571
26096	7590	09/05/2008	EXAMINER	
CARLSON, GASKEY & OLDS, P.C.			KNIGHT, DEREK DOUGLAS	
400 WEST MAPLE ROAD			ART UNIT	PAPER NUMBER
SUITE 350			3681	
BIRMINGHAM, MI 48009				
MAIL DATE		DELIVERY MODE		
09/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/543,080	PONTANARI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	DEREK D. KNIGHT	3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 May 2008.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 and 24-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 and 24-27 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-20, 24, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **KELLER (US 5,030,181)** in view of **PETZOLD (US 6,886,425)**.

A portion of Fig. 1 from **KELLER** has been reproduced below with added reference characters. **KELLER** discloses a drive axle assembly with a locking differential comprising: a driving input (A) defining a longitudinal axis; a carrier (C) including a pinion gear (B) driven by said driving input and a ring gear (24) in meshing engagement with said pinion gear; a differential including a differential gear assembly supported by a differential case (comprised of the ring gear (24) and the carrier (C)) wherein said ring gear is attached to said differential case (because it is integrally formed) to drive said differential gear assembly; a pair of axle shafts (1) driven by said differential gear assembly for rotation about a lateral axis, said lateral axis being transverse to said longitudinal axis; a locking mechanism including a shift collar (18) and an electronic actuator (16) for controlling movement of said shift collar wherein said shift collar is movable between an unlocked position where speed differentiation between said pair of axle shafts is permitted and a locked position, and wherein said shift collar is moved into locking engagement with said differential case in response to

an electronic signal such that said differential case, said shift collar and said pair of axle shafts are fixed for rotation together about said lateral axis, and wherein said electronic actuator comprises a coil (16) surrounding said shift collar wherein said electronic signal powers said coil to move said shift collar; wherein said shift collar includes an inboard end having a splined surface (21) and an outboard end, said inboard end having a greater diameter than said outboard end and wherein said coil defines a central bore surrounding said shift collar at said outboard end, said shift collar moving in an inboard direction in response to said coil being powered via said electronic signal such that said splined surface of said inboard end engages a mating splined surface (22) formed on said differential case such that said differential case is locked to said pair of axle shafts; an axle housing (2) for substantially enclosing said carrier and said pair of axle shafts wherein said coil is supported by said axle housing; and a resilient member (26) for automatically returning said shift collar to said unlocked position when said coil is not powered.

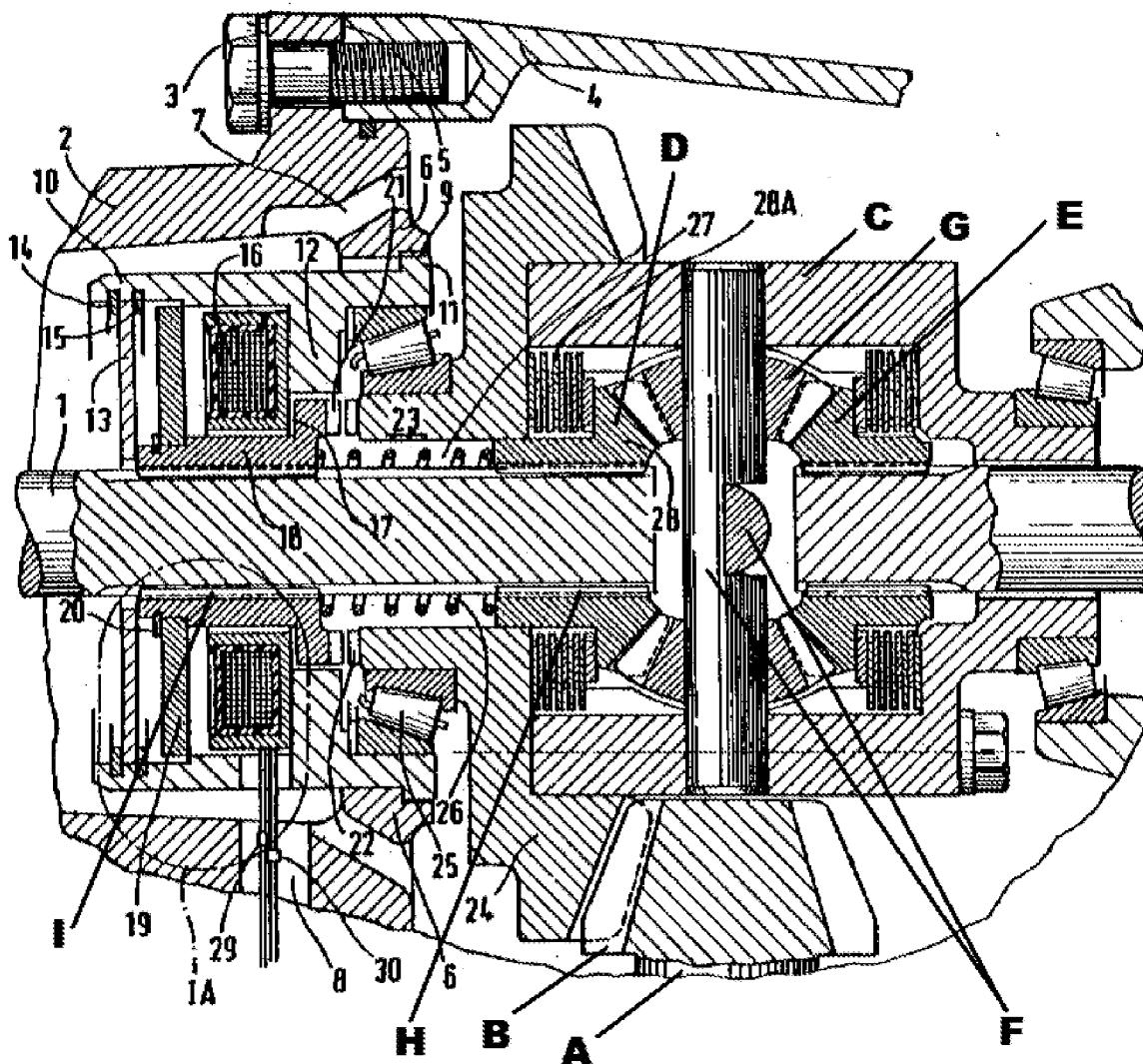
The differential case includes a first case half (C) and a second case half (24) attached to the first case half and wherein said electronic actuator selectively draws said shift collar into direct engagement with one of said first and second case halves.

A pair of side gears (D,E) with one side gear being fixed to each of said pair of axle shafts and wherein said differential gear assembly includes a differential spider (F) having four support shafts orientated in an overall shape of a cross and four differential pinion gears (G) in meshing engagement with said side pair of gears with one of said four differential pinion gears being supported on each of said four support shafts and

wherein said ring gear is fixed to one of said first and second case halves such that said ring gear, said differential case, said differential spider, and said four differential pinion gears all rotate as one unit to transfer power to said pair of axle shafts via said pair of side gears when no speed differentiation is required and when speed differentiation is required said four differential pinion gears rotate on respective support shafts to speed up rotation of one of said pair of axle shafts via a respective one of said pair of side gears while slowing rotation of the other of said pair of axle shafts via a respective other of said pair of side gears.

One of said pair of axle shafts (1) includes a set of inboard splines (H) and a set of outboard splines (I), said set of inboard splines cooperating with said respective one of said pair of side gears to fix said one of said pair of side gears for rotation with said one of said pair of axle shafts and said set of outboard splines cooperating with a splined bore formed inside said inboard end of said shift collar.

The shift collar includes an inboard end (21) that engages the differential case and an outboard end (adjacent member (13)) that has a smaller diameter than the inboard end, and including fixing a washer (19) to the outboard end of the shift collar, and positioning the coil axially between the inboard end (21) and the washer (19).



*Figure 1: Taken from Figure 1 of KELLER (US 5,030,181)*

KELLER does not disclose the resilient member surrounding an outer end portion of the shift collar and reacting between the coil and a washer mounted to the outboard end of the shift collar.

PETZOLD teaches an electromagnetic shift arrangement wherein a resilient member (46) surrounds an outer end portion (44) of a shift collar (18) and the resilient member reacts between a coil (40) and a washer (22) mounted to the shift collar.

Both Keller and Petzold teach methods of biasing a shift collar that is electromagnetically actuated, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute one method for the other to achieve the predictable result of biasing the shift collar.

Claims 11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **KELLER (US 5,030,181)** in view of **PETZOLD (US 6,886,425)** as applied to claims 1-10, 12-20, 24, 25 and 27 above, and further in view of **FOGELBERG (US 4,561,520)**.

The combination of KELLER-PETZOLD discloses a differential locking mechanism with an electronic actuator including a coil that is attached to the housing.

The combination of KELLER-PETZOLD does not disclose the coil having mounting portions the receive fasteners to connect the coil to the housing.

FOGELBERG teaches a coil (48) attached to a housing (12) by the use of fasteners (not numbered).

Both the combination of KELLER-PETZOLD and FOGELBERG teach methods of retaining a coil in a housing, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute one method for the other to achieve the predictable result of retaining the coil in the housing.

### ***Response to Arguments***

Applicant's arguments filed 5/15/2008 have been fully considered but they are not persuasive. Applicant argues that there is no suggestion or motivation to modify the Keller reference to have a resilient member surround the outer end portion of the shift collar. Examiner disagrees. The Petzold reference teaches a resilient member (46)

surrounding a shift collar (18) and located between the coil (40) and a washer member (22). The resilient member is positioned such that it can disengage the shift collar when the coil is deactivated. The Keller reference includes a resilient member (26) that also acts to disengage the shift collar (18) when the coil (16) is deactivated. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the method of disengagement taught by Keller for the method of Petzold to achieve the predictable result of biasing the shift collar out of engagement.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEREK D. KNIGHT whose telephone number is

(571)272-7951. The examiner can normally be reached on Mon - Thurs & every other Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. D. K./  
Examiner, Art Unit 3681

/CHARLES A. MARMOR/  
Supervisory Patent Examiner, Art  
Unit 3681